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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,973	11/21/2003	Xin Ning	17892	4409

23556 7590 05/31/2005

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EXAMINER

BOYKIN, TERRESSA M

ART UNIT PAPER NUMBER

1711

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/718,973

Applicant(s)

NING, XIN

Examiner

Terressa M. Boykin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2-14-05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1- 8, 10 - 20 are rejected under 35 U.S.C. 102(e) as being anticipated by JP 2004-315659 (translation included) see abstract, claims.**

The reference discloses a polylactate film having biodegradability, excellent flexibility, excellent film forming properties attained by the inhibition of plasticizer bleed-out, and has a suitable heat seal elongation.

The method for producing the polylactate (which is a polyester) film comprises mixing polylactic acid with a biodegradable aliphatic/aromatic copolyester of a glass transition temperature of 0°C or lower in such a mixing ratio that (the polylactic acid)/(the biodegradable aliphatic/aromatic copolyester) is in the range of 40/60 to 10/90 (by mass%), compounding 100 pts. mass (in total) polylactic acid and biodegradable aliphatic/aromatic copolyester with 0.5 to 15 pts. mass plasticizer and 1-40 pts. mass inorganic filler to form a resin composition, melting the resin composition by heating, and forming the melt into a film by inflation.

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**Claims 1- 8, 10 - 20 are rejected under 35 U.S.C. 102(e) as being anticipated by USPub 2003/0162013 see pages 1-6, Tables 3 and 4.**

The reference is directed to personal care products comprising biodegradable films. The biodegradable films display enhanced breathability and ductility, and contain a biodegradable polymer and a water-soluble polymer. The biodegradable polymer is preferably a biodegradable aliphatic polyester, and the water-soluble polymer is preferably polyethylene oxide, polyethylene glycol, or a copolymer thereof.

With regard to claims 4, 10 and 11 note that the reference states that suitable filler materials include calcium carbonate.

With regard to claims 5 note that the reference states that fibers prepared from polylactic acid polymers are known.

With regard to claim 6 note that in addition to the biodegradable polymer, water soluble polymer and the filler, the precursor film, finished biodegradable film and articles produced in the present invention may optionally contain various additives such as plasticizers, processing aids, rheology modifiers, antioxidants, *UV light stabilizers*. Note that the uv light stabilizer as discussed in applicants specification on page provides the compatibilizer to the composition.

With regard to claims 7 and 8 note the reference states that the precursor film produced from the polymer/filler mixture preferable contains from about 10 percent to about 70 percent by weight of the filler. More preferably, the film contains from about 20 percent to about 50 percent by weight of the filler which overlaps applicants' claims.

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With regard to claims 12 and 13 note the films of the reference are useful as disposable personal care articles because of their superior breathability.

With regard to claims 13 and 14 note Tables 3 and 4 of the reference.

With regard to claim 15 note that the blended polymer mixture may be formed into a film using a variety of techniques such as casting , blowing or compression molding as shown in Figure 1.

With regard to claims 18 discloses that the films are laminated on one or both sides of a nonwoven web such as a spunbond web which can serve as an effective load bearing component. With regard to claims 16 and 17 the web as disclosed in the reference anticipates the biaxially stretched and monoaxial directions as claimed.

With regard to claims 19 and 20 as noted previously, the biodegradable film is especially suitable for personal care products such as diapers, training pants, feminine pads, panty liners, incontinence product as well as wound dressing and delivery systems.

Thus in view of the above, there appears to be no significant difference between the reference and that which is claimed by applicant(s). Any differences not specifically mentioned appear to be conventional. Consequently, the claimed invention cannot be deemed as novel and accordingly is unpatentable.

### **Correspondence**

**Please note that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an**

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alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov)), from the Office of Public Records and from commercial sources. Applicants may be referred to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Terressa Boykin whose telephone number is 571 272-1069. The examiner can normally be reached on Monday through Friday from 6:30am to 3:00pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The general information number for listings of personnel is ( 571-272-1700).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tmb



Examiner Terressa Boykin  
Primary Examiner  
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